(1)

Supreme Court, U.S.
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No. 01-48

In The

Supreme Court of the United States

Brian R. Tinsley,

Petitioner

v.

**The Walt Disney Company, and
Walt Disney Productions,**

Respondent(s)

**On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Fourth Circuit**

PETITION FOR A WRIT OF CERTIORARI

Brian R, Tinsley
Petitioner

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Pro Se

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45 pp

Questions Presented

(1) Whether the United States District Court for the Eastern District of Va. (Richmond Division) and the United States Court of Appeals for the Fourth Circuit were proper in their decision in transferring this case to the Central District of California for lack of Jurisdiction in the forum state (Virginia).

(2) Whether the holding in International Shoe Co. v. Washington, 326 U.S. 310, 316 -17 (1945), the proper standard in determining the "minimum contact" requirement.

(3) Whether the Petitioner is entitled to the protection of the Due Process Clause of the Fourteenth Amendment that holds: No State shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

(4) Whether the Due Process clause of the Fourteenth Amendment of the Constitution of The United States intended to protect copyright infringers from prosecution in a forum where they have much more than just minimal contact, yet are therefore visible present.

(5) Whether the Petitioners Thirteenth Amendment Right to the Constitution of The United States violated by the defendants in their act of Copyright Infringement.

(6) Whether the United States District Court for the Eastern District of Va. (Richmond Division) and or the United States Court of Appeals for the Fourth Circuit examined the petitioner's evidence proving that these non-resident defendants are subject to personal jurisdiction in this Commonwealth pursuant to § 8.01-328.1 (The Virginia Long-Arm Statue) where the defendant has more than minimum contacts with the forum.

(7) Whether the Defendants products, logos and Trademarks in this Commonwealth considered its presence within this state.

(8) Whether the defendant's wholly owned subsidiaries located in this Commonwealth act as agents for the defendant by selling exclusively the parent corporation products.

(9) Whether the defendant is subject to personal Jurisdiction pursuant to The Virginia Blue Sky Law.

(10) Whether the three years statue of limitation as provided in Sec. 507 (b) of 17 U.S.C., enacted to make void the protection afforded by Sec. 302 of 17 U.S.C.

(11) Whether an Act of Congress (The Copyright Act of 1976), pursuant to 17 U.S.C. §§ 102, and 106, protection against copyright infringement pursuant to Sec. 501.

(12) Whether the defendant's use of the plaintiff's (who resides in Virginia) originally created expressions "King Lion" ("Lion King") and "King of Beast in his full mane, his royal coat" an infringement of a Virginia residents copyright considered causing a tortious act to a resident of the forum.

(13) Whether 17 U.S.C., § 507(b) was enacted as a three-year statue of limitations or whether it's enactment was as such that no civil action would be maintain unless it is commenced within three years after the claim accrued.

(14) Whether the "Exclusive Rights" of the author of a copyrighted work pursuant to § 106, afforded by an Act of Congress governed pursuant to 17 U.S.C., § 302.

(15) Whether the petitioner can be made to litigate a copyright infringement case in a forum that is convenient to the defendant wherein the petitioner lacks the resources to

litigate out of state, and the petitioner, who resides in this Commonwealth have alleged and have entered evidence to prove that he has suffered severe harm by the acts of non-resident corporations.

(16) Whether making false statement in an affidavit considered perjury, if so, is the defendant subject to prosecution for doing so (making false statements in an affidavit).

(17) Whether or not the defendant will be prosecuted for perjury to the full extent of the Law, pursuant to US Code: Title !8, Chapter 79, §§ 1621, 1622, & 1623.

LIST OF PARTIES

The parties to the proceedings are Brian R. Tinsley, Petitioner, and The Walt Disney Company, Respondent.

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A. A court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action

arising from the person's:

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3. Causing tortious injury by an act or omission in this Commonwealth;

4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in this Commonwealth;

6. Having an interest in, using, or possessing real property in this Commonwealth;

B. Using a computer or computer network located in the Commonwealth shall constitute an act in the Commonwealth. For purposes of this subsection, "use" and "computer network" shall have the same meanings as those contained in § 18.2-152.2.

C. When jurisdiction over a person is based solely upon this section, only a cause of action arising from acts enumerated in this section may be asserted against him; however, nothing contained in this chapter shall limit, restrict or otherwise affect the jurisdiction of any court of this Commonwealth over foreign corporations which are subject to service of process pursuant to the provisions of any other statute.

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- (a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:
  - (1) literary works;

USC 17, Sec. 103. Subject matter of copyright: Compilations and derivative works .....

- (a) The subject matter of copyright as specified by section 102 includes compilations and derivative works, but protection for a work employing preexisting material in which copyright subsists does not extend to any part of the work in which such material has been used unlawfully.

- (b) The copyright in a compilation or derivative work extends only to the material contributed by the author of such work, as distinguished from the preexisting material employed in the work, and does not imply any exclusive right in the preexisting material. The copyright in such work is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the preexisting material.

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OPINIONS BELOW

The opinion of the United States Court of Appeals for the Fourth Circuit was so Ordered on November 15th 2000: Appellee has filed a motion to dismiss appeal for lack of jurisdiction. Appellant has filed a response to the motion and appellee has filed a reply in support of the motion. Appellant has filed a memorandum in support of his motion to suppress the defendant's motion to dismiss for lack of Jurisdiction. The Court grants the motion to dismiss. The opinion of the United States Court of Appeals for the Fourth Circuit on the plaintiff's Motion to Rehear was so Ordered on January 9th 2001: By order dated 11/15/00, the Court granted appellee's motion to dismiss appeal for lack of jurisdiction. Appellant has filed a motion for rehearing and a motion for reconsideration of its order. The Court denies the petition for rehearing and the motion for reconsideration.
The opinion of the United States District Court for the Eastern District of Virginia was so Ordered on June 8th 2000: This matter is before the Court on the defendant's Motion to Dismiss or Transfer to the Central District of California, the plaintiff's Motion to Establish and Sustain Proper Venue and Personal Jurisdiction over Defendant, and the plaintiff's Motion of Entry of Default. For the reasons stated from the bench on June 8th, 2000, the defendant's Motion to Dismiss or to Transfer is GRANTED IN PART. Because this Court lacks personal jurisdiction over the defendant, and because venue in this Court is improper, the case is TRANSFERRED to the United States District Court for the Central District of California for further proceedings. Additionally, for the reasons stated from the bench, the plaintiff's Motion to Establish and Sustain Proper Venue and Personal Jurisdiction over Defendant is DENIED, and the plaintiff's Motion for Entry of Default is DENIED. The Clerk is DIRECTED to send the file to the Clerk of the United States District Court for the Central District of California.

STATEMENT OF JURISDICTION

The judgment of the United States Court of Appeals for the Fourth Circuit ("Court of Appeals") was entered on November 16th 2000. The Court of Appeals denied a timely petition for rehearing on January 9th 2001. The jurisdiction of the Court is invoked under 28 U.S.C. § 1254(1).

STATEMENT REQUIRED BY RULE 29.4(b)&RULE 29.4 (c)

Pursuant to Rule 29.4(b), the Court is informed that 28 U.S.C. § 2403(a) may apply and the U.S. District Court for the Eastern District of Va. (Richmond Division) shall serve on the Solicitor General of the United States and certified to the Attorney General that the constitutionality of Acts of Congress were called into question by Petitioner.
Pursuant to Rule 29.4©, the Court is informed that 28 U.S.C. § 2403 (b) may apply and the U.S. District Court for the Eastern District of Va. (Richmond Division) shall served on the Attorney General of Virginia and shall certify to the Attorney General that the constitutionality of a statues of a Virginia were drawn into question by Petitioner

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article I, section 8, clause 8 of the United States Constitution provides that
Congress shall have power . . .

[t]o promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries[.]

The Seventh Amendment to the Constitution provides:

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

The Fourteenth Amendment to the Constitution provides, in pertinent part:

[Section 1] All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

[Section 5] The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

STATEMENT OF THE CASE

Petitioner Brian R. Tinsley as a free lance writer, wrote and copyrighted an original work titled " The Calling of Cable" pursuant to Sec. §§101 & 102(a)(1) of Title !7, of The U.S. Code, hereafter to be referred to as the petitioners work. (Copyright dated February 22nd 1989, Copyright Registration No. TXU – 359 – 536), pursuant to §302(a), 17 USC. In General. - Copyright in a work created on or after January 1, 1978, subsists from its creation and, except as provided by the following subsections, endures for a term consisting of the life of the author and 70 years after the author's death.
Pursuant to §104(a). Embodied in the petitioners work was an "originally created character", "originally created expressions", rarely used expressions, expressions in the description of different scenes and the use of a mixture of two different African languages.
After petitioner secured Copyright protection, he sent his work to a variety of Film Makers including the defendant. The defendant copyright infringed on and developed from the petitioners "exact expressions". Among the petitioners originally created expressions embodied in the petitioners work were two originally created expressions which created an originally created character:
(1) "King Lion" and (2) "King of Beast, in his full mane, his royal coat", in which are both "originally created

expressions" which makes up an "originally created character" that are protected, pursuant to Sec. 106 of 17 U.S.C. Petitioner entered evidence to the United States District Court for the Eastern District of Va. (Richmond Division), proving that the defendant's were going to title their infringing work "King Lion", the petitioner's exact "originally created expression" and "originally created character". The evidence was returned to the petitioner and rejected in the United States District Court for the Eastern District of Virginia (Richmond Division), but was later received by the United States Court of Appeals for the Fourth Circuit) in the petitioners (plaintiff's) brief, of which a substantial amount of this evidence may not have been received (accepted) by the court.

The defendant's used at least one rarely used expressions that is found in the petitioners work as a (water hole) in description of a place, the same expression is used in the defendant's work to describe a place.

The defendants also made use of the exact same two African languages that the petitioner used in the petitioners (protected) work, them being:

(1) "Swahili" and (2) "Zulu".

In the defendant's infringing work, there are a number of different scenes that are "Substantially Similar" to scenes found in the petitioners' work. Supporting the petitioner's claim of "Copyright Infringement". The defendant's infringements of the petitioners work, begin when the defendant used and developed from the petitioners "originally created expressions: "King Lion" and "King of Beast, in his full mane, his royal coat", that caused the creation a an "originally created character", that the defendant would apparently Title "King Lion", but was titled "Lion King" upon it's release, violating Sec. 106(1) of Title 17 USC.

The defendant's infringements continues in the defendant's derivative works, such as:

(1) The Lion King II: Simba's Pride which was released in 1998:

(2) The Lion King III:, "Simba's Heir"

(3) The Lion King IV: "Dark Ruler"

(4) The Lion King V: "The Final Clash"
(5) The Lion King VI: "The Human Encounter"
(6) The Lion King VII: "Evil of the Mighty"
(7) "The Origin"
(8) "The Creation"
(9) "The Good Heart"

The eight latter of these nine derivative works are all written by the same writer for the sake of the defendants. There are several other works of the defendants that are derivative of the defendant's infringements of the petitioners work, violating Sec. 106(2) of Title 17 USC.

To prevail in copyright infringement action, plaintiff must demonstrate existence and validity of copyright and copying by defendants. Jones v. CBS, Inc., S.D.N.Y.1990, 733 F.Supp. 748, 15 U.S.P.Q.2d 1380.

Quantitative or qualitative significance of infringement

Even small amount of original, if it is qualitatively significant, may be sufficient to be infringement of copyright in original, although full original could not be recreated from excerpt. Horgan v. Macmillan, Inc., C.A.2 (N.Y.) 1986, 789 F.2d 157, 229 U.S.P.Q. 684.

Originality

Work is "original" to author and thus qualifies for copyright protection if work is independently created by author and possesses some minimal degree of creativity. Fiest Publications, Inc. v. Rural Telephone Service Co., Inc., U.S.Kan. 1991, 111 S.Ct. 1282, 499 U.S. 340, 113 L.Ed.2d 358, 18 U.S.P.Q.2d 1275.

Pursuant to Sec. 102, USC, 17. Subject matter of copyright: In general

(a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories: (1) literary works;

Pursuant to Sec. 106, USC. 17.
Exclusive rights in copyrighted works Subject to sections 107 through 121, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:
(1) to reproduce the copyrighted work in copies or phonorecords;
(2) to prepare derivative works based upon the copyrighted work;

Petitioner exercised his right to petition the Government for a redress of grievances, pursuant to the First Amendment to the Constitution of The United States.

And pursuant to the Fourteenth Amendment to the Constitution of The United States, petitioner (Brian R. Tinsley) exercises his rights in:

§ 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

§ 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

The Proceedings Below

Petitioner filed a complaint under 17 U.S.C., §§ 501,102 and 106 on December 23rd1999 against defendants (The Walt Disney Company) hereinafter to be referred to as (TWDC), petitioner amended his complaint on Jan.11th 2000. Petitioner served complaint upon defendants on April 17th 2000. On May 11th 2000, petitioner received service of a Praecipe made by respondent. The next day May 12th 2000, petitioner received service of a Motion to Dismiss or to Transfer for

lack of jurisdiction. Embodied in the respondent's Motion to Dismiss or Transfer, respondent made reference to a three year statue of limitations in copyright actions. Respondent's Motion to Dismiss or to Transfer was received one day in default, and was stamp with metered mail postage. Attached to the respondent's Motion to Dismiss or to Transfer was an Affidavit made by a Marsha L. Reed, whom identified herself as the corporate secretary of (TWDC). In the affidavit made by Ms. Reed, she made false statements as to the ownership of it's wholly-owned subsidiaries (The Disney Store) and of the activities of (TWDC) in the forum.

On the 30th day of May 2000, petitioner filed a Motion to Establish and Sustain Proper Venue and Personal Jurisdiction over Defendant, A Motion to strike Affidavit on Grounds defendant making false statements, a Motion to Suspend the Three Year Statue of limitations pursuant to § 302 of 17 U.S.C. and a Motion to find Defendant in Default.

On June 9th 2000, a pretrial conference was held at The United States District Court for the Eastern District of Virginia (Richmond Division) wherein upon petitioner's opening statement of this case, petitioner was cut off by the judge of the court, and soon after the judge of the court transferred this case to the Central District of California, without hearing or giving any consideration at all to the petitioner or to the evidence the petitioner entered that proved that the respondents are transacting and doing business in the forum in a variety of different ways.

On July 10th 2000, petitioner filed a timely Appeal to The United States Court of Appeals for the Fourth Circuit to appeal the decision that was rendered against him on June 9th of 2000. Petitioner was instructed by the court to file a brief pursuant to The Federal Rules of Civil Procedures. Petitioner filed a Motion for an Extension of time to file his Brief. Petitioner filed a brief that was rejected by the United States Court of Appeals for the Fourth Circuit for entry of more the than the allowable amount of pages to be entered in a brief. Petition was granted time to refile a proper brief. Petitioner filed what he believed to be a proper brief. Petitioner's appeal was denied on Nov. 16th 2000. Petitioner filed a Motion to Rehear and the Motion to Rehear was

denied on January 9th 2001.

THE WALT DISNEY COMPANY PERJURED THEMSELVES IN THE AFFIDAVIT THEY PRESENTED TO THE COURT

Pursuant to § 8.01-279. When proof is unnecessary unless affidavit filed; handwriting; ownership; partnership or incorporation.

B. When any pleading alleges that any person, partnership, corporation, or unincorporated association at a stated time, owned, operated, or controlled any property or instrumentality, no proof of the fact alleged shall be required unless an affidavit be filed with the pleading putting it in issue, denying specifically and with particularity that such property or instrumentality was, at the time alleged, so owned, operated, or controlled.

Pursuant to § 8.01-280. Pleadings may be sworn to before clerk; affidavit of belief sufficient.

Any pleading to be filed in any court may be sworn to before the clerk or any officer authorized to administer oath thereof; and when an affidavit is required in support of any pleading or as a prerequisite to the issuance thereof, it shall be sufficient if the affiant swear that he believes it to be true. In the Affidavit made by Marsha L. Reed, (TWDC) Corporate Secretary, she states the following:

I, Marsha L. Reed, on oath depose and state as follows:
1. My name is Marsha L. Reed, I make this Affidavit upon knowledge of the facts set forth herein, which facts are true and correct, as well as my review of the books and record of the Walt Disney Company ("TWDC") that are kept in the ordinary course of business.
2. I am Vice President and Secretary of TWDC
3. TWDC is incorporated in the State of Delaware and has its principal place of business in the State of California. TWDC is authorized to do business, and maintains offices,

only in the States of California and New York. The business activities of TWDC consist of the ownership of stock in a variety of corporations operating in, among others, the fields of entertainment, recreation, and consumer products.

4. TWDC does not do business in Virginia. It transacts no business there, solicits no business there, is not qualified or registered to do business there, and has no directors or officers there.

5. TWDC is not subject to taxation by the State of Virginia.

6. TWDC has no offices in Virginia.

7. TWDC maintains no registered agent for service of process in Virginia.

8. TWDC has no employees or agents based in or property located in Virginia.

9. TWDC has no telephone listing or mailing addresses in Virginia.

10. TWDC owns no assets or bank accounts in Virginia.

11. No travel agent located in Virginia is an agent of "TWDC", nor does any travel agent have authority to act on TWDC's behalf.

12. TWDC does not purchase advertising of any kind appearing in the State of Virginia, whether nationwide or local.

13. TWDC does not conduct any retail business in Virginia. TWDC does not own, control, or operate any of the so-called "Disney Stores" located in Virginia. These retail stores are owned , controlled, and operated by a California corporation, The Disney Store, Inc. TWDC and the Disney Store, Inc. are separate and distinct corporate entities which maintain separate books and records. Although The Disney Store, Inc. is, at present, an indirect subsidiary of TWDC, TWDC and The Disney Store, Inc. are entirely separate legal entities. TWDC does not control the day-today operations of The Disney Stores, Inc.

SIGNED UNDER THE PENALTIES OF PERJURY this 8th day of May, 2000 by Marsha L. Reed.

SUBSCRIBED AND SWORN TO before me this 8th day of May, 2000

My commission expires:

18 APR 2001
Katie Mclean, Commission #1133650(last three numbers are blurry)

Notary Public -California, Los Angeles County

Credibility of the Defendant

In a recent suit filed against The Walt Disney Company, Disney's anti-piracy guru is blowing the whistle on the studio, which she claims fired her for refusing to let it understate millions of dollars in legal fees spent for copyright enforcement in responding to an IRS audit. Fees attributed to copyright cases would have to be amortized over the long life of film or TV properties rather than taken as an immediate expense, resulting in an increased tax bill for the studio, according to a suit filed Wednesday in Los Angeles Superior Court. In the complaint, Judy E. Denenholz, who was senior vice president for worldwide anti-piracy, also claimed her termination in January 2000 was spearheaded by executive vice president and general counsel Lou Meisinger and senior vice president and assistant general counsel Peter Nolan, both of whom allegedly had long-standing grudges against Denenholz. Years before, Meisinger's firm was caught by Denenholz for overbilling. Meisinger's firm was required to repay $500,000 and lost its job representing the studio, the suit said. As for Nolan, he allegedly treated Denenholz with disrespect because she refused his sexual advances and was jealous about Deneholz's rise up the Disney ladder, according to the complaint. Despite Meisinger's old firm's problems with Disney in the early 1990's, he was hired as general counsel in 1998. In 1999, he transferred Denenholz from Buena Vista Home Entertainment to the Walt Disney Company, where she would once again report to Nolan, her former boss, who treated her inappropriately, the lawsuit says. Her first assignment was to approve a written draft response to the IRS in connection to an audit for the 1993, 1994 and 1995 tax years. The IRS informed Disney that its legal and professional expenses for copyright and trademark lawsuits

couldn't be deducted as an expense all in the year that the expense was incurred, as Disney had done, according to Denenholz's lawsuit. Rather, the studio was to deduct the expenses over the "life" of the intellectual property, spread out over many years. "The result of this audit was clear: Depending on the amount that had been improperly deducted, Disney would have to pay more in taxes," the suit states. However, the $676,000 figure (purported to encompass all legal expenses for intellectual property lawsuits for the three years in question) that Disney's Tax Department gave to Denenholz to approve was "substantially understated," the lawsuit says. For example, it didn't include the millions Disney paid to the Motion Picture Association of America each year to investigate and bring piracy lawsuits worldwide on behalf of Disney; it didn't include the money spent on criminal matters, just civil suits; and it omitted the cost of Disney's in-house legal staff devoted to this work, among other expenses. Denenholz claims she brought these discrepancies to Nolan's attention, but he "became abrupt and rude with her," adding that it was his idea to leave out the expenses for the criminal matters. Denenholz took up her concerns with two people in the Tax Department, and they said they would prepare a separate schedule of the criminal matters and, "if the number was small, Disney would give it to the IRS; however, if the number was big, then Disney's Tax Department would need to talk to Mr. Nolan again and explore how comfortable they were about not providing it to the IRS," the suit says. A few days later, the project was taken away from Denenholz and assigned to a more junior lawyer in the legal department, the suit adds. Then, on Jan. 4, 2000, Denenholz was presented with a revised written draft to the IRS to approve, but the number was still too low, and she refused to approve it. In addition, if Disney's reporting methods were to be the standard, an additional $10 million or more would have to be reported for the years 1996 through 2000, besides the $12 million in expenses that would go unreported for the audited years, the lawsuit states. She was terminated the next day. Denenholz's lengthy lawsuit details what it describes as her

exceptional work, raises and promotions at Disney for nearly 20 years, as well as the events that led to her termination just six months before she vested for full retirement. Denenholz's $20 million lawsuit against Disney claims violations of the California Labor Code Section 1102.5 that provides that an employer may not in any way attempt to prevent an employee from disclosing information to a governmental agency when the employee has a reasonable belief that the information reveals a violation of, or noncompliance with, state or federal law. In response to Denenholz's statements and actions regarding the response to the IRS, Disney fired her as a whistleblower, according to the suit.

USC. Title 18, Chapter 79, Pursuant to Sec. 1621. Perjury generally Whoever -
(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or (2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true; is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.
'Whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be fined under this title or imprisoned not more than five years, or both.

Any person subject to this chapter who in a judicial proceeding or in a course of justice willfully and corruptly -

Sec. 1623. False declarations before grand jury or court: (a) Whoever' under oath (or in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code) in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration or makes or uses any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration, shall be fined under this title or imprisoned not more than five years, or both. (b) This section is applicable whether the conduct occurred within or without the United States. & (e) Proof beyond a reasonable doubt under this section is sufficient for conviction. It shall not be necessary that such proof be made by any particular number of witnesses or by documentary or other type of evidence.

THE WALT DISNEY COMPANY IS TRANSACTING AND DOING BUSINESS IN THIS COMMONWEALTH IN A VARIETY OF DIFFERENT WAYS

Pursuant to § 8.01-328.1. When personal jurisdiction over person may be exercised.

A. A court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action arising from the person's:

1. Transacting any business in this Commonwealth;

2. Contracting to supply services or things in this Commonwealth;

3. Causing tortious injury by an act or omission in this Commonwealth;

4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course

of conduct, or derives substantial revenue from goods used or consumed or services rendered, in this Commonwealth;

6. Having an interest in, using, or possessing real property in this Commonwealth;

B. Using a computer or computer network located in the Commonwealth shall constitute an act in the Commonwealth. For purposes of this subsection, "use" and "computer network" shall have the same meanings as those contained in § 18.2-152.2.

C. When jurisdiction over a person is based solely upon this section, only a cause of action arising from acts enumerated in this section may be asserted against him; however, nothing contained in this chapter shall limit, restrict or otherwise affect the jurisdiction of any court of this Commonwealth over foreign corporations which are subject to service of process pursuant to the provisions of any other statute.

§ 8.01-328. Person defined.

As used in this chapter, "person" includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association or any other legal or commercial entity, whether or not a citizen or domiciliary of this Commonwealth and whether or not organized under the laws of this Commonwealth

The defendant is subject to personal jurisdiction in the forum state (Virginia) because the defendant has in pass and was at the time of the Infringement doing & transacting business in the state of Virginia through the defendant's agents in a variety of the following ways:

(1) The defendants contract and sells it's products such as toys, books, clothing, etc., by way of it's subsidiaries; The Disney Store and the Walt Disney Catalog Company in this Commonwealth;

(2) The defendant's market their products such as videotapes through video stores such as Blockbuster, Hollywood Video, as well as many other video rental stores, in this Commonwealth.

(3) The defendants sell their magazine products by way Book stores, book stands and some Supermarket in this Commonwealth.

(4) The defendant also sells products or at the least offer the sales of their products byway of their online store on their Web Sites that they make available to anyone whom has access to the Internet in this Commonwealth.

(5) The defendant offers byway of it's Interactive Web Sites, the opportunity for people in this Commonwealth to buy into it's Shareholder Service. Pursuant to the Virginia Blue Sky Law, the defendant is subject to personal jurisdiction in the forum State, as the defendant also offers byway of it's Interactive Web Sites, the opportunity for people in this Commonwealth to make investments in stocks of (TWDC).

(6) The defendant has several different advertisement on their website of the "Lion King" on going in the forum State. (http:/www.lionking.org)

In this case, the subject of personal jurisdiction over this out-of-State defendant's "tortious act" that caused injury to the petitioner whom resides in this Commonwealth, has been proven to the United States District Court for Eastern District of Virginia (Richmond Division), as well as to the United States Court of Appeals for the Fourth Circuit, and personal jurisdiction have been denied in both Courts without consideration of the petitioners evidence. The defendant's product of a variety of different kind are being sold to residence of this Commonwealth daily byway of many different agents that contracts to sell the defendant's products.

The petitioner asked the United States Court for the Eastern District of Virginia (Richmond Division), as well as the

United States Court of Appeals for the Fourth Circuit for a hearing or trail by a jury, and petitioners request was denied:

Pursuant to §8.01-107. Trial by jury of issues made upon rule.

If, upon the return of such rule, any party thereto demand a trial by jury, the court shall order a trial by jury to ascertain what liability, if any, exists against any such special commissioner, receiver, or purchaser, and their sureties; and the court shall enter judgment on the verdict awarded by the jury. New trials may be granted as in other cases; and notwithstanding such rules be awarded and judgment be rendered against part only of the persons liable thereto, the court may award new rules and proceed to judgment against all the parties who are liable thereto. The provisions of this section, and §§ 8.01-105 and 8.01 – 106, 8.01-132. What interest and right plaintiff must have.

AGENT DEFINED BY THE COURTS FOR THE TRANSACTION OF CORPORATION USUAL AND CUSTOMARY BUSINESS.

The courts have interpreted "agent" broadly. In State ex rel. Pagliara v. Stussie, the court observed that "agent," as used in § 508.040, need not be defined in the same way as it has been defined in service of process cases. The court noted that § 508.040 is not drafted in terms of a "general agent" as used in the service of process statutes, but simply requires the agent be one for the "'transaction of their (the corporation's) usual and customary business.'"[3] The court interpreted the legislature's failure to utilize the term of art "general agent" in § 508.040 as suggesting a distinction between venue and service of process statutes.[4] After referring to Missouri's broad policy of subjecting corporations to suits, the court concluded "agent" as used in § 508.040 should not be narrowly defined, and, therefore, the court adopted the broad definition of "agent" as "[a] person authorized by another to act for him, one intrusted with another's business."[5] Using

this broad definition of "agent," the court in Pagliara held venue was proper against defendant company because it employed a special representative in St. Louis County for the solicitation of business on behalf of the company, the special representative maintained and paid for a St. Louis County post office box, and he received business calls at home and used a company credit card for business calls made from his residence.

This defendant's has several different "agents" of whom operates Interactive Web Sites that interacts with any person(s) in this Commonwealth that or whom has a Computer and that or whom have an Internet Service Provider that allows them access to the Internet. Disney Interactive http://www.xone.net/searchsearch.php? search text=lawsuit&k=Disney.

In one of the defendant's Interactive Web Site, (http://disney.go.com/ investors/wdig.html) The Walt Disney Internet Group, on page 4, line 29, in the Business Synergy portion of an Annual Report of The Walt Disney Company dated 12/19/96, File Number 1-11605 (96683401), · Accession Number 0000898430-96-005815, it reads:

EMBODIED IN TWDC'S ANNUAL REPORT DATED 12/19/96 File Number 1-11605 (96683401), · Accession Number 0000898430-96-005815, it reads:

"The Creative Content segment produces live-action and animated motion pictures, television programs and musical recordings, licenses the Company's characters and other intellectual property for use in connection with merchandise and publications, and publishes books and magazines. Within the segment, films and characters are often promoted through the release of audiocassettes and compact discs, children's books and magazines. In addition,television programs have been created that contain characters originated in animated films. Character merchandising and publications licensing promote the Company's films and television programs, as well as the Company's other operations. The Company's also operates the Disney Stores, which are direct retail distribution outlets for products based on the Company's characters and films. The Company's is also engaged directly in the home video

In keeping with its pursuit of business synergy, the Company recently moved into the development of multimedia technologies, including interactive software, interactive television and video ventures. The Company's interactive software is primarily oriented toward children, and includes characters from the Company's animated films and television programs.

DISNEY INTERACTIVE

Disney Interactive is a fully-integrated software business focused on the product development and marketing of entertainment and educational computer software and video game titles for home and school. The division's initiatives also involve the development, publication and distribution of content for narrow-band on-line services, the interactive software market, interactive television platforms, Internet web site and other emerging technology.
The recordation of this document, proves that in the defendant's Affidavit, the defendant has commited the act of "perjury", in the statements made in statements Nos. (4, 8, 9, 10, 12,13) of the defendant's Affidavit made by Marsha L. Reed (the Corporate Secretary of The Walt Disney Company).

PERSONAL JURISDICTION FOR CAUSING TORTIOUS INJURY BY FOREIGN CORPORATION THAT WERE HELD SUBJECT TO PERSONAL JURISDICTION IN VIRGINIA BY AN ACT OR OMISSION OUTSIDE VIRGINIA

In *Telco* the plaintiffs alleged that Apple a Day's press releases over the Internet defamed Telco. Apple a Day challenged the suit for lack of personal jurisdiction. The *Telco* court applied Virginia's long-arm statute to the Apple a Day's activities. Under that statute a Virginia court may assert jurisdiction over a defendant who regularly does or conducts business in Virginia and causes tortious injury in Virginia by an act or omission outside Virginia. Apple a Day did not challenge the fact that a tortious injury occurred

as the result of an act or omission outside the state. The *Telco* Court therefore focused on the regular conduct of business prong and, agreeing with the Connecticut district court's decision in Inset, held that posting an advertisement or solicitation on a website constitutes a consistent course of conduct and that the press releases constituted doing or soliciting business. In doing so, the *Telco* court rejected the Second Circuit's holding in Bensusan that nonresidents must be physically present in the state for jurisdiction to attach. The court also found that jurisdiction existed based on a tortious injury resulting from an act or omission in Virginia. It reasoned that the defendants were aware of the breadth of the distribution of the press releases, both from information they had received when contracting to post the press releases and from their knowledge of Telco's and an ISP's presence in Virginia. Finally, though the defendants did not challenge a finding of personal jurisdiction on federal Due Process grounds, the court held that the defendants could reasonably have anticipated being haled into court and thus no violation of federal Due Process would occur.

FOREIGN CORPORATIONS HELD SUBJECT TO PERSONAL JURISDICTION FOR "DOING AND OR TRANSACTING BUSINESS" IN A FORUM THAT THEY HAVE PURPOSEFULLY AVAIL THEMSELVES THE PROTECTION OF THAT STATE.

The basis of the assertion of jurisdiction of the courts of a State over a foreign corporation has been even more uncertain than that with respect to individuals. First, it was asserted that inasmuch as a corporation could not carry on business in a State without the State's permission, the State could condition its permission upon the corporation's consent to submit to the jurisdiction of the State's courts, either by appointment of someone to receive process or in the absence of such designation. Second, the corporation by doing business in a State was deemed to be present there and thus subject to service of process and suit because it was present. Presence conflicted with the prevailing idea of corporations as having no existence outside their State of

incorporation, but the theory was nonetheless accepted that a corporation "doing business" in a State to a sufficient degree was "present" for service of process upon its agents in the State who carried out that business. International Shoe, a foreign corporation, had not been issued a license to do business in the State, but it systematically and continuously employed a force of salesmen, residents thereof, to canvass for orders therein, and was held suable in Washington for unpaid unemployment compensation contributions in respect to such salesmen. Service of the notice of assessment personally upon one of its local sales solicitors plus the forwarding of a copy thereof by registered mail to the corporation's principal office in Missouri was deemed sufficient to apprise the corporation of the proceeding. To reach this conclusion the Court not only overturned prior holdings to the effect that mere solicitation of patronage does not constitute doing of business in a state sufficient to subject a foreign corporation to the jurisdiction thereof, but also rejected the "presence" test as begging "the question to be decided. . . . The terms 'present' or 'presence,'" according to Chief Justice Stone, "are used merely to symbolize those activities of the corporation's agent within the State which courts will deem to be sufficient to satisfy the demands of due process. . . . Those demands may be met by such contacts of the corporation with the State of the forum as make it reasonable, in the context of our federal system . . . , to require the corporation to defend the particular suit which is brought there; [and] . . . that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice'. . . . An 'estimate of the inconveniences' which would result to the corporation from a trial away from its 'home' or principal place of business is relevant in this connection." As to the scope of application to be accorded this "fair play and substantial justice" doctrine, the Court, at least verbally, concluded that "so far as . . . [corporate] obligations arise out of or are connected with activities within the State, a procedure which requires the corporation to respond to a suit brought to enforce them can, in most instances, not be said to be undue. These statements coupled with the terms

of the new doctrine lead to a reversal of former decisions which: (1) nullified the exercise of jurisdiction by the forum State over actions arising outside the State and brought by a resident plaintiff against a foreign corporation doing business that have not been legally admitted and did not consent to service of process of a resident agent; and (2) exempted a foreign corporation, which has been licensed by the forum State to do business within that State and has given consented to the appointment of a local agent to accept process, from suit on an action that did not arising in the forum State and is not related to activities pursued therein. By an extended application of the logic of the position, a majority of the Court ruled that, notwithstanding that it solicited business in Virginia solely through recommendations of existing members and was represented therein by no agents whatsoever, a foreign mail order insurance company had through its policies developed such contacts and ties with Virginia residents that the State, by forwarding notice to the company by registered mail only, could institute enforcement proceedings under its Blue Sky Law leading to a decree ordering cessation of business pending compliance with that act. The due process clause was declared not to "forbid a State to protect its citizens from such injustice" of having to file suits on their claims at a far distant home office of such company, especially in view of the fact that such suits could be more conveniently tried in Virginia where claims of loss could be investigated. Likewise, under a California statute, subjecting foreign mail order insurance companies to suit in California on insurance contracts with residents thereof.' This Court has held that the foreseeability that a defendant's product will make it's way into a forum, and foreseeability is relevant only insofar as "the defendant's conduct and connection with the forum State are such that he should reasonably anticipate being haled into court there. A defendant must, as the Court said in Denckla, "purposefully [avail] itself of the privilege of conducting activities within the forum State," if not by carrying on business there within the constitutional sense, at least by delivering "its products into the stream of commerce with the expectation that they will be purchased by

consumers in the forum State."

FOREIGN CORPORATIONS HELD SUBJECT TO PERSONAL JURISDICTION PURSUANT TO THEIR SUFFICIENT "MINIMUM CONTACTS" WITH A FORUM

The Court consider whether holding the defendants subject to this state's jurisdiction accords with due process. To sustain the exercise of personal jurisdiction over a nonresident defendant, the nonresident defendant must have had "minimum contacts with [the forum state] such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.'" International Shoe Co. v. Washington, 326 U.S. 310, 316 (1945) (citation omitted) (quoted in Synergetics, 701 P.2d at 1110). To determine whether a nonresident defendant has had sufficient minimum contacts with the forum state to justify the imposition of personal jurisdiction over him or her, we look to "the relationship of the defendant, the forum, and the litigation to each other." Parry v. Ernst Home Center Corp., 779 P.2d 659, 662 (Utah 1989). Proper inquiry must focus not on the mere quantity of contacts, but "rather upon the quality and nature" of the contacts as they relate to the claims asserted. International Shoe, 326 U.S. at h319. The first principle, that a State may assert jurisdiction over anyone or anything physically within its borders, no matter how briefly there—the so-called "transient" rule of jurisdiction—McDonald v. Mabee, 243 U.S. 90,91 (1917), remains valid, although in Shaffer v. Heitner, 433 U.S. 186, 204 (1977), the Court's dicta appeared to assume it is not. In Burnham v. Superior Court of California, a man residing in New Jersey was served with a divorce petition while temporarily visiting his children in California, where his wife lived. The husband's only relevant contacts with the state of California were a few visits there to see his children. Nonetheless, the Supreme Court upheld a California state-court judgment against the defendant. In Justice Scalia's words, "[t]he short of the matter is that jurisdiction based on physical presence alone constitutes due process because it is one of the

continuing traditions of our legal system that define the due process standard . . . " 495 U.S. at 619. At the close of World War II, the Supreme Court decided International Shoe Co. v. Washington, 326 U.S. 310 (1945), a landmark case that partly overturned Pennoyer and ushered in the era of jurisdiction based on "substantial contacts" with the forum. In doing so, International Shoe made unnecessary the fiction of implied consent, and it dramatically changed the way that American courts conceptualized personal jurisdiction. In adjudicating personal jurisdiction issues, American courts today rarely rely on cases decided before International Shoe.

PERSONAL JURISDICTION FOR THEIR INTERNET AND INTERACTIVE WEB SITES ACTIVITIES.

In: Telco Communications v. An Apple A Day, 977 F.Supp. 404 (E.D. Va. Sept. 24, 1997). The court concluded that posting a web site in an attempt to advertise and solicit business, was sufficient "to serve as an analogue for physical presence" for purposes of the Virginia long-arm statute. Adopting the reasoning of Inset Systems, Inc. v. Instruction Set, Inc., the court stated that posting a web site advertisement or solicitation constituted a "persistent course of conduct." Further, because the defendant's web site was accessible to Virginia residents 24 hours a day, such activity was "regular" within the meaning of the long-arm statute. In Maritz, Inc. v. CyberGold, Inc., 947 F. Supp. 1328 (E.D. Mo. 1996),the Court held that Sustaining exercise of jurisdiction over defendant where defendant's only contact with Missouri was a web site "published" on a computer in California that "provided information about CyberGold's new upcoming [Internet] service." Court noted that defendant's web site was accessible to any Internet user, including those in Missouri, and in fact had been accessed by people in Missouri. Heroes, Inc. v. Heroes Foundation, 958 F.Supp. 1 (D.D.C. Dec. 12, 1996) http://zeus.bna.com/e-law/libindex.html In this case the defendant charity had placed an advertisement seeking donations in the Washington Post and also had an Internet web page that was nationally accessible. The Court found that defendant transacted business and caused tortious injury (based on

trademark infringement) in the forum jurisdiction based on the combination of the local newspaper advertisement and the Internet site. While the Court held that, because of the newspaper advertisement, it need not decide if the Internet web site alone would support jurisdiction, the opinion appeared to leave little doubt that it would have sustained jurisdiction based upon the web site alone. Gary Scott International v. Baroudi, 1997 WL 710369 (D.Mass. Nov. 13, 1997). The court held that defendant's maintenance of an Internet Web site, used to solicit business in Massachusetts, combined with defendant's actual sale of 12 "Tobacco Keepers" in Massachusetts and an intention to distribute more of the same, was sufficient for purposes of the long-arm statute and, thus, exercise of personal jurisdiction was proper. In Inset Systems, Inc. v. Instruction Set, Inc., 937 F. Supp. 161 (D. Conn. 1996), the Court held: Sustaining exercise of jurisdiction over defendant where defendant's only contacts with Connecticut were an Internet web site and an 800 telephone number, both of which advertised defendant's services. The web site and 800 number were accessible to anyone with Internet access or a telephone including Connecticut residents.

It is the notion of a continuous presence created by electronic-based media that seemed to influence Judge Covello in rendering a finding of personal jurisdiction, based only on a defendant's maintenance of a "passive" Internet website. In *Inset*, ISI's webpage had no interactive capabilities. Other than posting advertising material, ISI could not conduct any additional activity on its website such as transmitting computer files to consumers, utilizing e-mail to communicate with webpage visitors, or entering into contracts with customers for the sale of goods or services The Inset court, however, failed to take into account the difference between a "passive" and an "interactive" website in its jurisdictional analysis. The "interactive" website differs substantially from a "passive" website in that it can engage in communication with potential consumers who are situated in a particular geographic location, and can establish a pattern of geographically-specific activity through its contacts with those persons. This scenario allows

for the formation of "relationships" between users and the webpage advertiser, with the potential of establishing the type of conduct which may ultimately constitute sufficient "minimum contacts" with the forum state.

Superguide v. Kegan, 44 U.S.P.Q.2d 1770, 1997 WL 754467 (W.D.N.C. Oct. 8, 1997). Court denied defendant's motion to dismiss for lack of subject matter jurisdiction, personal jurisdiction and venue in Federal Trademark action. Addressing the issue of personal jurisdiction, the court noted that the even though the extent of the defendant's contacts with North Carolina were unknown, in that the number of "hits" received on defendant's web site from North Carolina residents had not been established, a reasonable inference could be made, based on the fact that North Carolina was a "populated state," that a large number of residents had visited defendant's web site and utilized his commercial services. Based on this assumption, the court determined that defendant's maintenance of an Internet Web site constituted "substantial activity" sufficient for purposes of the North Carolina long-arm statute.

Due Process of the Fourteenth Amendment

The due process clause is primarily a protection of an individual's liberty interest in not being subjected to binding judgments in a forum to which he has no meaningful contacts. It provides predictability and foreseeability of where the defendant will render himself liable to suit. It does not represent a restriction on judicial power as a matter of federalism or sovereignty. Thus, if the claim arises out of the in-state activity, it is presumptively reasonable for a state to reach out past its territory to exert specific jurisdiction over a person who purposefully establishes contacts with in-state citizens, and avails himself of the privilege of conducting activities in that state, because the state has a manifest interest' in providing convenient remedies for its citizens.

Additionally, once it has been established that there are minimum contacts, the court may also consider other factors to determined whether the exercise of personal jurisdiction would comport with fair play and substantial justice', such as the interests of the state, the plaintiff, and the judicial

system. These considerations sometimes serve to establish jurisdiction upon a lesser showing of minimum contacts. In this case, The Walt Disney Company clearly made purposeful contacts with the state of Virginia and in targeting the forum with a variety of their products such as the Lion King movies (of which is a part of the cause of this action) on video cassette, the Lion King script that can be read and or printed from an Interactive web site (http:www.lionking.org/scripts/Script.txt) belonging to the Walt Disney Company. Toys, clothing, books and other products of the Walt Disney Company, are targeted at the forum and are sold to residence of this Commonwealth, subjecting themselves (TWDC) to jurisdiction pursuant to the Virginia long-arm statute. The Parent Corporation (TWDC) targeting the forum with it's products whether directly or by agent or instrumentality, it is not unreasonable that they be subject to personal jurisdiction in Virginia. Whether due process is met depends on a three part inquiry. First, the private interest that will be affected by the prejudgment measure; second, the risk of erroneous deprivation and the procedural safeguards; and third, the interest of the party seeking the judgment. The Courts have held that a Cloud on a title of property is a serious deprivation.

REASONS FOR GRANTING THE WRIT

This case **originated as a Complaint of Copyright Infringement made by the petitioner upon the defendant pursuant to Sec. 501. Infringement of copyright:** (a) Anyone who violates any of the exclusive rights of the copyright owner as provided by sections 106 through 121 or of the author as provided in section 106A(a), or who imports copies or phonorecords into the United States in violation of section 602, is an infringer of the copyright or right of the author, as the case may be. For purposes of this chapter (other than section 506), any reference to copyright shall be deemed to include the rights conferred by section 106A(a). As used in this subsection, the term "anyone" includes any State, any instrumentality of a State, and any officer or

employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this title in the same manner and to the same extent as any nongovernmental entity.
(b) The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of section 411, to institute an action for any infringement of that particular right committed while he or she is the owner of it. The court may require such owner to serve written notice of the action with a copy of the complaint upon any person shown, by the records of the Copyright Office or otherwise, to have or claim an interest in the copyright, and shall require that such notice be served upon any person whose interest is likely to be affected by a decision in the case. The court may require the joinder, and shall permit the intervention, of any person having or claiming an interest in the copyright.
This Court has stated that the copyright law, following explicit Constitutional authority, reflects a belief that the limited monopolies it confers serve the public welfare by encouraging authors to generate new ideas and to disseminate them to the public in any originally expressed way that they may choose. Harper & Row, Publishers, Inc. v. Nation Enterprises, 471 U.S. 539, 546 (1985). Although the "immediate effect of our copyright law is to secure a fair return for an 'author's' creative labor," the ultimate aim of this incentive is to stimulate creativity for the "general public good." Sony Corp. v. Universal City Studios, Inc., 464 U.S. 417, 432 (1984), quoting from Twentieth Century Music Corp. v. Aiken, 422 U.S. 151, 156 (1975). The policy of "encouragement of individual effort by personal gain" has long been viewed as "the best way to advance public welfare through talents of authors and inventors in 'Science and useful Arts'." Mazer v. Stein, 347 U.S. 201, 219 (1954).

When Congress adopted the current Copyright Act in 1976, it deliberately defined the "works of authorship" eligible for copyright protection in an open-ended and general manner. Thus, Section 102(a) provides that: Copyright protection

subsists . . . in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced or otherwise communicated, either directly or with the aid of a machine or device. (17 U.S.C. 102(a) (emphasis supplied).) A work being eligible for copyright, does not mean that every element of the work may be protected against copying by others, as this Court observed in Feist Publications, Inc. v. Rural Telephone Serv. Co., 449 U.S. 340, 348 (1991). The scope of protection afforded by the Copyright Law to a copyrighted work is subject to important limiting principles, that derived from the Constitution itself. A copyright will protect only so much of a work as is original to, or created by, the author.
The petitioner's "Originally Created " expressions and character: "King Lion" and "King of Beast in his full mane, his royal coat" and the petitioner's use of a rarely used expression water hole in the description of a place that is embodied in the petitioner's work was used in the defendant's work exactly as it is used in the petitioner's work, also in description of a place in the defendant's work.

Pursuant to § 8.01-132. What interest and right plaintiff must have.

No person shall bring such ejectment action unless he has, at the time of commencing it, a subsisting interest in the premises claimed and a right to recover the same, or to recover the possession thereof, or some share, interest or portion thereof.

Pursuant to § 8.01-139 of the Va. Code. What proof by plaintiff is sufficient.

The consent rule, formerly used, remains abolished. The plaintiff need not prove an actual entry on, or possession of, the premises demanded, or receipt of any profits thereof, or any lease, entry, or ouster, except as hereinafter provided. But it shall be sufficient for him to show a right to the possession of the premises at the time of the commencement of the suit.

The petitioner's work that has been infringed upon by the defendant, is Copyright protected under Copyright Registration No. TXU 359 536, registration of Copyright

The petitioner's work that has been infringed upon by the defendant, is Copyright protected under Copyright Registration No. TXU 359 536, registration of Copyright dated February 22nd 1989, titled "The Calling of Cable" which embodied the petitioner's "Originally Created Expressions" as well as the petitioner's "Originally Created Character" hosted by a number of different scene similarities that are in support of the act of the infringement, which therefore subjects the defendants to personal jurisdiction pursuant to Sec. 8.01-328.1A(4) (the Virginia long-arm statue).

The defendants are subject to personal jurisdiction because it (a) carries on a continuous and systematic presence and relationship in Virginia, with residence of the forum State by way of it's products that are targeted at the forum State pursuant to Sec. 8.01-328.1 (A)(1) &(2), (b) it's Interactive web sites, with the fact that it offers to sell shareholders and investors plans to Virginia resident, pursuant to Sec. 8.01-328.1 (A) (1) & (B) and the Virginia Blue Sky Law, (c) the defendants have caused a tortlous act inside and outside of this Commonwealth, byway of Copyright Infringing on the petitioners work whom is a resident of the forum State, by Infringing on his property that was sent to them out of State, then targeted the forum with the infringing products for their own profit pursuant to Sec. 8.01-328.1 (A) (3), (4) & (6).

In that Personal jurisdiction over the Foreign Corporation is made, venue has been properly laid pursuant to:

Sec. 1391. Venue generally

- © For purposes of venue under this chapter, a defendant that is a corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced. In a State which has more than one judicial district and in which a defendant that is a corporation is subject to personal jurisdiction at the time an action is commenced, such corporation shall be deemed to reside in any district in that State within which its contacts would be sufficient to subject it to personal jurisdiction if that district were a separate State, and, if there is no such district, the corporation shall be deemed to reside in the district within which it has the most significant contacts.

CONCLUSION

The United States District Court for the Eastern District of Virginia (Richmond Division) has errored in transferring this case to The United States District Court for the Central District of California for lack of subject matter jurisdiction and along with The United States Court of Appeals for the Fourth Circuit have both failed to recognized or to determine that this Foreign Corporation is transacting and doing business in this Commonwealth in various ways, and that it is transacting and doing business "continuous and systematic", and therefore is subject to personal jurisdictional in this Commonwealth pursuant to the Virginia long-arm statue.

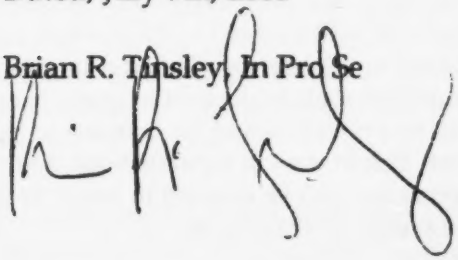
Petitioner has look into the files of the two Federal Courts where he entered evidence but cannot find most of petitioners evidence that was entered, nor can he find the defendant's Motion to Dismiss or to Transfer amongst the records of neither The United States District Court for the Eastern District of Virginia (Richmond Division) or The United States Court of Appeals for the Fourth Circuit.

WHEREFORE, Petitioner prays that Justice lieth within the hearts of the Justices of The United States Supreme Court and that The United States is still a place wherein Justice is for all and not just a word spoken. Petitioner ask that his petition for certiorari be read and be granted.

Respectfully submitted,

Dated, July 9th, 2001

Brian R. Tinsley, In Pro Se



APPENDIX

Page

Appendix A. Opinion of the United States Court of Appeals for the Fourth Circuit Filed November 15, 2000. .....App. 1

Appendix B. Opinion of the United States District Court for the Eastern District of Virginia (Richmond Division) Filed on June 9, 2000...
.....App 2

Appendix C. Denial of Petitioner Brian R. Tinsley petition for rehearing filed January 9, 2001.....App. 3

FILED: November 15, 2000

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-1903
(CA-99-584)

BRIAN R. TINSLEY

Plaintiff - Appellant,

versus

WALT DISNEY COMPANY, INCORPORATED,

Defendant - Appellee,

and

WALT DISNEY PRODUCTIONS, INCORPORATED,

Defendant,

ORDER

Appellee has filed a motion to dismiss for lack of jurisdiction. Appellant has filed a response to the motion and appellee has filed a reply in support of the motion. Appellant has filed a memorandum in support of his morion to suppress the defendant's motion to dismiss for lack of jurisdiction.

The Court grants the motion to dismiss.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

BRIAN R. TINSLEY,

Plaintiff,

v. Civil Action No. 3:99CV854

THE WALT DISNEY COMPANY,
WALT DISNEY PRODUCTIONS, INC.

Defendant,

ORDER

This matter is before the Court on the defendant's Motion to Dismiss or to Transfer to the Central District of California, the plaintiff's Motion to Establish and sustain Proper Venue and Personal Jurisdiction over Defendant, and the plaintiff's Motion of Entry of Default. For the reasons stated from the bench on June 8, 2000, the defendant's Motion to Dismiss or to Transfer is GRANTED IN PART. Because this Court lacks personal Jurisdiction over the defendant, and because venue in this Court is improper, the case is TRANSFERRED to the United States District Court for the Central District of California for further proceedings. Additionally, for the reasons stated from the bench, the plaintiff's Motion to Establish and Sustain Proper Venue and Personal Jurisdiction over Defendant is DENIED, and the plaintiff's Motion for Entry of Default is DENIED.

The Clerk is DIRECTED to send the file to the Clerk of the United States District Court for the Central District of California.

It is so ORDERED.

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
FILED
January 9, 2001

No. 00-1
CA-99-854

BRIAN R. TINSLEY
Plaintiff - Appellant

v.

WALT DISNEY COMPANY, INCORPORATED
Defendant - Appellee

and

WALT DISNEY PRODUCTIONS, INCORPORATED
Defendant

ORDER

By order dated 11/15/00, the Court granted appellee's motion to dismiss appeal for lack of jurisdiction. Appellant has filed a motion for rehearing and for reconsideration of it's order.

The Court denies the petition for rehearing and the motion for reconsideration.

For the Court,

/s/ Patricia S. Connor

CLERK